

## **IX. Cellular Providers Should Not Be Licensed PCS Providers**

One of the recurring themes in this PCS proceeding is the potential for increased competition within the mobile or wireline marketplace, or both. Terms such as: "competitive delivery"<sup>15</sup>, "to ensure a wide and rich range of PCS services"<sup>16</sup> and "a greater diversity and degree of technical and service innovation"<sup>17</sup> are pervasive messages throughout this Notice. It is reasonable to conclude that the competitive nature of these emerging services would be best realized if alternatives to the present mobile carriers were designated as the PTS licensees.

Under GEN. Docket 87-390<sup>18</sup> and the FCC's stated intentions<sup>19</sup> to modify Section 22.930, there essentially are no regulatory stipulations preventing cellular carriers from providing the primary services envisioned in PCS, i.e. mobile data, microcell service in high density pedestrian areas or wireless business exchange services. Additionally, there are no greater technical barriers to providing these

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<sup>15</sup> Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN. Docket No. 90-314 & ET Docket No. 92-100, August 14, 1992, Para. 6.

<sup>16</sup> Para. 34.

<sup>17</sup> Para. 59.

<sup>18</sup> Report and Order, GEN. Docket No. 87-390, 5 FCC Rcd 1138, 1990.

<sup>19</sup> Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN. Docket No. 90-314 & ET Docket No. 92-100, August 14, 1992, Para. 70.

services as a cellular carrier than one will encounter as a new entrant.

Authorizing cellular carriers additional spectrum at 2 GHz, will concentrate the fastest growing mobile services in a small group of mobile elite companies. Whether or not licensed for PTS, cellular operators will be formidable competition to new providers. The same benefits they could provide this infant industry, such as established infrastructure and operating organizations, will also have anticompetitive potential. When you include the fact that many of the parent companies, of the cellular subsidiaries, also have vested interests in paging companies, the scope of mobile communication concentration increases.

A highly visible example of the thrust towards telecommunications diversification is the Modification of Final Judgment (MFJ). This legacy of anti-trust activity should serve as an example of the Federal Government's intentions to unconcentrate the Country's source of communications. Similar examples of diversification can be found in the inter-exchange market and metropolitan fiber services. Providing a new authorization, at 2 GHz, for cellular carriers to provide mobile communications would be inconsistent with the Commission's trend towards expansion of communication options. The FCC needs to implement their "intention [is] to foster a market environment in which

cellular and PCS licensees compete with a variety of telecommunications services, including cellular"<sup>20</sup>.

**X. An Anti-speculative Licensing Mechanism Is Needed For Personal Telecommunications Services**

The Commission is correct in considering mechanisms which will curtail the financial speculation in licensing that became rampant in the cellular and 220 MHz authorizations. License speculation causes an undue burden on the FCC and can significantly contribute to higher service costs per subscriber, as license speculators sellout to true service providers. Without severe antispeculation measures the impact on the FCC could be overwhelming if only considering the administrative task that will accompany potentially thousands of interested parties.

ROLM supports the FCC's concept of qualified lotteries with stringent filing requirements. At the least, the lottery applicants should be required to submit a business and construction buildout plan with certification of financial capabilities and commitment. The lottery should also require substantial, nonrefundable filing fees based on the eventual market licensing scheme. Only requiring high filing fees and financial commitments will not discourage those who have

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<sup>20</sup> Para. 70.

access to extensive financial resources, but lack the operational capabilities. Those having the service capabilities will by necessity be capable and comfortable preparing the necessary business plans.

Conceptually ROLM agrees with the application fee structure outlined in paragraph 90 of this Notice. The fee formula needs to be based on the entire amount of spectrum to be licensed to each entity, to prevent an applicant from using a minimum amount of spectrum, for fee calculations, and obtaining the maximum allocation.

In addition to the pre-lottery qualifications, post-lottery restrictions on license transfers would further reduce the allure of speculation. It maybe beneficial to structure the lottery such that selected applicants were not initially awarded an operating license, but rather, a construction permit. Licenses would be awarded upon reaching standardized milestones relating to system buildout and/or service availability. Licensees with a true commitment to serving the public, should have no reservations about this approach, since it is in their best interest to be on the air as soon as possible. As always though, the FCC needs to be willing to allow for extensions of the milestones in extenuating circumstances.

## **XI. Conclusion**

Is the increasing availability of mobile communications fueling the demand for PCS or is the pent-up demand fueling the acceleration of availability? The answer is both.

Changes in American lifestyles and work environments have been catalysts behind these emerging technologies. What is now necessary are the regulatory rulings which will clarify the requirements for implementing the services.

With the advent of additional radio-based personal communications, some of the new services, specifically wireless business exchanges, local area networks and peer-to-peer computing, intended for low power in-building applications, will be best served by the adoption of a new FCC ruling for unlicensed operation. A significant amount of work has been invested, by vendors interested in U-PCS, in the technical guidelines and policy issues associated with this service. There is agreement that additional spectrum is needed and a sharing etiquette should be employed to mitigate the potential for interference and abuse. The Commission needs to act on these elements, independent of the proceedings governing licensed services.

ROLM believes that a wireless business system will provide the marketplace with more opportunities for easy and

convenient access to a wide range of resources. Indeed, the power of personal communications lies in its ability to enable people greater freedom in the use of and access to information. Information will be available more readily in response to peoples' needs regardless of where they are. This is ROLM's charter for communication innovation.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Steven Sivitz", written in a cursive style.

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November 4, 1992